

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Gilbert Mainez,

Petitioner,

v.

A.D.W. Eccles, et al.,

Respondents.

No. CV-22-08036-PCT-GMS (ESW)

ORDER

Pending before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Eileen S. Willett (Doc. 12) regarding petitioner’s Amended Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 5). The R&R recommends that the Amended Petition be dismissed with prejudice. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R and that failure to file timely objections could be considered a waiver of the right to obtain review of the R&R. *Id.* at 7 (citing Fed. R. Civ. P. 72, 6; *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)).

The parties did not file objections, which relieves the Court of its obligation to review the R & R. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (“[Section 636(b)(1)] does not . . . require any review at all . . . of any issue that is not the subject of an objection.”). The absence of a timely objection also means that error may not be assigned on appeal to any defect in the rulings of the Magistrate Judge on any non-

1 dispositive matters. Fed. R. Civ. P. 72(a) (“A party may serve and file objections to the
2 order within 14 days after being served with a copy [of the magistrate’s order]. A party
3 may not assign as error a defect in the order not timely objected to.”); *Simpson v. Lear*
4 *Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996); *Phillips v. GMC*, 289 F.3d 1117,
5 1120-21 (9th Cir. 2002).

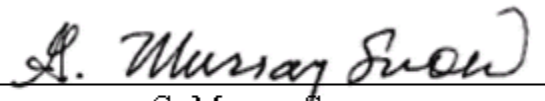
6 The court will accept the R&R and dismiss the Petition. *See* 28 U.S.C. § 636(b)(1)
7 (stating that the district court “may accept, reject, or modify, in whole or in part, the
8 findings or recommendations made by the magistrate”).

9 **IT IS ORDERED** that the Report and Recommendation of the Magistrate Judge
10 (Doc.12) is accepted.

11 **IT IS FURTHER ORDERED** that the Clerk of the Court enter judgment denying
12 and dismissing petitioner's Amended Petition for Writ of Habeas Corpus filed pursuant to
13 28 U.S.C. § 2254 (Doc. 5) with prejudice. The Clerk shall terminate this action.

14 A request for a certificate of appealability will be denied because dismissal of the
15 Amended Petition is justified by a plain procedural bar and jurists of reason would not find
16 the procedural ruling debatable.

17 Dated this 8th day of September, 2022.

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20 G. Murray Snow
21 Chief United States District Judge
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